

CERTIFICATION OF ENROLLMENT  
**ENGROSSED SUBSTITUTE SENATE BILL 5011**

Chapter 273, Laws of 2009

61st Legislature  
2009 Regular Session

NOVELTY LIGHTERS--PROHIBITION ON SALE--PENALTIES

EFFECTIVE DATE: 07/26/09

Passed by the Senate April 18, 2009  
YEAS 42 NAYS 2

BRAD OWEN

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**President of the Senate**

Passed by the House April 6, 2009  
YEAS 85 NAYS 8

FRANK CHOPP

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**Speaker of the House of Representatives**

Approved April 29, 2009, 10:25 a.m.

CHRISTINE GREGOIRE

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**Governor of the State of Washington**

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **ENGROSSED SUBSTITUTE SENATE BILL 5011** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

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**Secretary**

FILED

April 29, 2009

**Secretary of State  
State of Washington**

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**ENGROSSED SUBSTITUTE SENATE BILL 5011**

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AS AMENDED BY THE HOUSE

Passed Legislature - 2009 Regular Session

**State of Washington                      61st Legislature                      2009 Regular Session**

**By** Senate Labor, Commerce & Consumer Protection (originally sponsored by Senators Kauffman, Kohl-Welles, Kline, and Keiser)

READ FIRST TIME 02/17/09.

1            AN ACT Relating to fire safety standards for novelty lighters;  
2 adding a new chapter to Title 70 RCW; and prescribing penalties.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** The definitions in this section apply  
5 throughout this chapter unless the context clearly requires otherwise.

6            (1) "Authority having jurisdiction" means the local organization,  
7 office, or individual responsible for enforcing the requirements of the  
8 state fire code.

9            (2) "Director" means the director of fire protection appointed  
10 under RCW 43.43.938.

11            (3) "Distribute" means to do any of the following:

12            (a) Sell novelty lighters or deliver novelty lighters for sale by  
13 another person to consumers;

14            (b) Sell or accept orders for novelty lighters that are to be  
15 transported from a point outside this state to a consumer within this  
16 state;

17            (c) Buy novelty lighters directly from a manufacturer or wholesale  
18 dealer for resale in this state;

1 (d) Give novelty lighters as a sample, prize, gift, or other  
2 promotion.

3 (4) "Manufacturer" means:

4 (a) An entity that produces, or causes the production of, novelty  
5 lighters for sale in this state;

6 (b) An importer or first purchaser of novelty lighters that intends  
7 to resell within this state novelty lighters that were produced for  
8 sale outside this state; or

9 (c) A successor to an entity, importer, or first purchaser  
10 described in (a) or (b) of this subsection.

11 (5)(a) "Novelty lighter" means a lighter that can operate on any  
12 fuel, including butane or liquid fuel. Novelty lighters have features  
13 that are attractive to children, including but not limited to visual  
14 effects, flashing lights, musical sounds, and toylike designs. The  
15 term considers the shape of the lighter to be the most important  
16 characteristic when determining whether a lighter can be considered a  
17 novelty lighter.

18 (b) "Novelty lighter" does not include disposable cigarette  
19 lighters or lighters that are printed or decorated with logos, decals,  
20 artwork, or heat shrinkable sleeves.

21 (6) "Retail dealer" means an entity at one location, other than a  
22 manufacturer or wholesale dealer, that engages in distributing novelty  
23 lighters.

24 (7) "Sell" means to transfer, or agree to transfer, title or  
25 possession for a monetary or nonmonetary consideration.

26 (8) "Wholesale dealer" means an entity that distributes novelty  
27 lighters to a retail dealer or other person for resale.

28 NEW SECTION. **Sec. 2.** (1) A person may not distribute or offer to  
29 sell a novelty lighter within this state if the director determines the  
30 novelty lighter is prohibited for sale or distribution under this  
31 chapter.

32 (2) This section does not apply if the novelty lighters are in  
33 interstate commerce and not intended for distribution in this state.

34 (3) The authority having jurisdiction shall enforce the provisions  
35 of this chapter.

1        NEW SECTION.    **Sec. 3.**    (1) The authority having jurisdiction may  
2 impose a civil penalty for a violation of this chapter. The civil  
3 penalty may not exceed:

4        (a) For a wholesale dealer that distributes or offers to sell  
5 novelty lighters to retail dealers or consumers, a written warning for  
6 the first violation and a monetary penalty of five hundred dollars for  
7 each subsequent violation.

8        (b) For a retail dealer that distributes or offers to sell novelty  
9 lighters to consumers, a written warning for the first violation and a  
10 monetary penalty of two hundred fifty dollars for each subsequent  
11 violation.

12        (2) The authority having jurisdiction may bring an action seeking:

13        (a) Injunctive relief to prevent or end a violation of this  
14 chapter;

15        (b) To recover civil penalties imposed under subsection (1) of this  
16 section; or

17        (c) To recover attorneys' fees and other enforcement costs and  
18 disbursements.

19        (3) Penalties under this section must be deposited in an account  
20 designated by the authority having jurisdiction.

21        (4) A district court has jurisdiction over all proceedings brought  
22 under this section.

23        NEW SECTION.    **Sec. 4.**    (1) On the effective date of this section,  
24 manufacturers must immediately cease the sale or distribution of  
25 novelty lighters in this state.

26        (2) On the effective date of this section, wholesalers and retail  
27 dealers have a maximum of ninety days to reduce their current inventory  
28 of novelty lighters. In no instance may wholesalers and retail dealers  
29 sell or distribute a novelty lighter in this state after ninety days  
30 from the effective date of this section.

31        NEW SECTION.    **Sec. 5.**    Sections 1 through 4 of this act constitute  
32 a new chapter in Title 70 RCW.

Passed by the Senate April 18, 2009.

Passed by the House April 6, 2009.

Approved by the Governor April 29, 2009.

Filed in Office of Secretary of State April 29, 2009.